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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,519	11/28/2003	James B. Badham	23306.00	7579

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EXAMINER

BELLINGER, JASON R

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/722,519	Applicant(s) BADHAM, JAMES B.	
	Examiner Jason R. Bellinger	Art Unit 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 7-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/28/03</u> . | 6) <input type="checkbox"/> Other: _____ |



Election/Restrictions

1. Claims 7-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4 April 2005.

2. Applicant's election with traverse of species I, drawn to Figures 2-4 and 5A-5B, in the reply filed on 4 April 2005 is acknowledged. The traversal is on the ground(s) that the non-elected species, drawn to Figures 6-7, fall within the scope of the generic inventive concept, and appear to be encompassed under a common field of search with the elected species. This is not found persuasive because there is no generic claim present in the application that encompasses both embodiments of the invention. Furthermore, both species contain structural elements that are unique to each species. For example, the elected embodiment contains attachment hooks located at both ends portions and a mid-portion of the strap. Furthermore, both embodiments of the invention attach to a tire chain in different manners. Therefore, each embodiment of the invention is considered to be distinct, regardless of whether or not the field of search would be similar.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elongated elastic member being substantially cylindrical, as set forth in claim 3, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Prior art tie-down straps, such as those shown in Figure 1 of the application, are not considered to be part of the instant invention.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loder ('307) in view of Barden and in further view of Dessery et al. Loder shows an elastic tie-down strap having an elongated member 1 having first and second ends (3 & 5, respectively) and a segment extending therebetween. A first hook 2 is attached to the first end 3, while a second hook 4 is attached to the second end 5. A third hook 6 is attached to the segment of the elongated member 1 between the first 3 and second 5 ends. The elongated member 1 secures a tire chain (11-14) to a tire 9 when the first 2, second 4, and third 6 hooks are attached to three points on an inner circular portion 12 of the tire chain (11-14). The elongated member 1 is substantially cylindrical.

Loder does not show the elongated member being elastic. Barden teaches the use of an elastic elongated member 10 used to secure a tire chain to a tire (see lines 40-42 and 45-48). The elastic elongated member is substantially flat, and constructed from rubber. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the tie-down strap of Loder with a rubber elastic elongated member, as a substitution of equivalent strap elements, in order to reduce the weight of the tie-down assembly and to increase the useful life of the tie-down strap, by reducing the number of parts susceptible to corrosion.

Loder as modified by Barden does not show the hooks being snap hooks that are of the self-locking carabineer type. Dessery et al teaches the use of a self-locking, carabineer style snap hook 19 used on a tie-down device for a tie chain. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the tie-down strap of Loder as modified by Barden with carabineer style self-locking snap hooks as a substitution of equivalent fastening means, in order to prevent unintentional removal of the tie-down strap from the tire chain during use.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show tie-down straps having end and middle hooks for tensioning a tire chain. For example, Loder ('300) shows a tie-down strap of the type described above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R. Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger
Examiner
Art Unit 3617

JASON R. BELLINGER
PATENT EXAMINER

jrb

[Signature]
6/8/05